



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,050	12/14/2000	Christopher Tate	583-1044	7139

7590 01/02/2004

Lee, Mann, Smith, McWilliams, Sweeney & Ohlson
PO Box 2786
Chicago, IL 60690-2786

EXAMINER

SHELEHEDA, JAMES R

ART UNIT PAPER NUMBER

2614

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,050

Applicant(s)

TATE ET AL.

Examiner

James Sheleheda

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 14 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

1. Claims 11-13 are objected to because of the following informalities: Claim 11 is incorrectly dependent upon itself. Based upon the formatting of applicants other claims, it is assumed that claims 11-13 are in fact meant to be dependent upon claim 10. In claims 11-13, line 1, "claim 11" should be changed to --claim 10--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 10, 14, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut et al. (Blahut)(5,446,490), in view of Budow et al. (Budow)(5,521,631).

As to claim 1, Blahut discloses a system for streaming data comprising: a **content providing server** (programming center 121 and program library 122) capable of storing content and communicating the content to at least a first and second recipient subscribers (104) via a communications network (column 3, lines 38-58), and a **distribution server** (ITV Server, 120 and Headend Equipment, 101) coupled in-line

Art Unit: 2614

between the content providing server and the at least first and second recipient subscribers (see Fig. 1), wherein the distribution server is arranged to **generate** at least a first and a second onward data streams and **transmit** the at least the first and second onward data streams to the at least the first and second recipient subscribers, respectively (column 8, lines 38-45 and lines 50-56), in response to an incoming data stream received from the content providing server and corresponding to the content (column 3, lines 38-42), **wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, lines 15-63) and are **offset** in time with respect to each other by a respective offset value (see Fig. 5). While Blahut discloses at least a first and second recipient subscriber receiving transmissions from the distribution server, he fails to specifically disclose wherein the recipient subscribers are servers.

Budow discloses a video distribution system wherein video broadcast from a distribution center (Fig. 1, 2a) is received by recipient servers (Fig. 2, video server 12, column 6, lines 40-57), at each location, for the advantage of allowing customers more control over and interaction with the video programming (column 4, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include the use of recipient servers, as taught by Budow, for the advantage of allowing customers more control over and interaction with the video programming.

As to claim 10, Blahut discloses a method of streaming data between a content providing server (programming center 121 and program library 122) and at least a first and a second recipient subscribers (104, column 3, lines 59-65) the method comprising the steps of: **receiving** an incoming data stream corresponding to content (column 3, lines 38-42), **generating** at least a first and a second onward data streams (column 8, lines 38-45 and lines 50-56), and **transmitting** the at least the first and second onward data streams to the at least the first and second recipient subscribers, respectively, in response to an incoming data stream (column 8, lines 38-45 and lines 50-56), **wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, lines 15-63) and are **offset** in time with respect to each other by a respective offset value (see Fig. 5). While Blahut discloses at least a first and second recipient subscribers receiving data streams, he fails to specifically disclose wherein the recipient subscribers are servers.

Budow discloses a video distribution method wherein video broadcast from a distribution center (Fig. 1, 2a) is received by recipient servers (Fig. 2, video server 12, column 6, lines 40-57), at each location, for the advantage of allowing customers more control over and interaction with the video programming (column 4, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's method to include the use of recipient servers, as taught by Budow, for the advantage of allowing customers more control over and interaction with the video programming.

As to claims 14 and 22, Blahut discloses a computer executable software code stored on a computer readable medium (wherein ITV Server, 120 and Headend Equipment, 101 must inherently include a program code in some storage to operate), the code being for streaming data between a content providing server (programming center 121 and program library 122) and at least a first and a second recipient subscribers (104, column 3, lines 59-65) the code comprising: code to **receive** an incoming data stream corresponding to content (column 3, lines 38-42), code to **generate** at least a first and a second onward data streams (column 8, lines 38-45 and lines 50-56), code to **transmit** the at least the first and second onward data streams to the at least the first and second recipient subscribers, respectively, in response to an incoming data stream (column 8, lines 38-45 and lines 50-56), **wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, lines 15-63) and are **offset** in time with respect to each other by a respective offset value (see Fig. 5). While Blahut discloses at least a first and second recipient subscribers receiving data streams, he fails to specifically disclose wherein the recipient subscribers are servers.

Budow discloses a video distribution system wherein video broadcast from a distribution center (Fig. 1, 2a) is received by recipient servers (Fig. 2, video server 12, column 6, lines 40-57), at each location, for the advantage of allowing customers more control over and interaction with the video programming (column 4, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include the use of recipient servers,

as taught by Budow, for the advantage of allowing customers more control over and interaction with the video programming.

As to claim 18, Blahut discloses a computer (ITV Server, 120 and Headend Equipment, 101) for streaming data between a content providing server (programming center 121 and program library 122) and at least a first and a second recipient subscribers (104, column 3, lines 59-65), comprising **memory** having at least one region for storing computer executable program code (wherein any computer server must inherently include a program code in some storage medium to operate), and a **processor** (In ITV server, 120; column 3, lines 59-65), for executing the program code stored in memory wherein the program code includes: code to **receive** an incoming data stream corresponding to content (column 3, lines 38-42), code to **generate** at least a first and a second onward data streams (column 8, lines 38-45 and lines 50-56), code to **transmit** the at least the first and second onward data streams to the at least the first and second recipient subscribers, respectively, in response to an incoming data stream (column 8, lines 38-45 and lines 50-56), **wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, lines 15-63) and are **offset** in time with respect to each other by a respective offset value (see Fig. 5). While Blahut discloses at least a first and second recipient subscribers receiving data streams, he fails to specifically disclose wherein the recipient subscribers are servers.

Budow discloses a video distribution system wherein video broadcast from a distribution center (Fig. 1, 2a) is received by recipient servers (Fig. 2, video server 12,

column 6, lines 40-57), at each location, for the advantage of allowing customers more control over and interaction with the video programming (column 4, lines 44-48).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include the use of recipient servers, as taught by Budow, for the advantage of allowing customers more control over and interaction with the video programming.

4. Claims 2, 11, 15, 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut and Budow as applied to claims 1, 10, 14, 18 and 22 above, and further in view of Debey (5,701,582).

As to claims 2, 11, 15, 19 and 23, while Blahut and Budow disclose the generating of first and second onward data streams, they fail to specifically disclose wherein data streams are generated prior to receipt of all of an incoming data stream.

Debey discloses the transmission of digital programming streams (column 14, lines 22-36), received at A/V digitizing units, (72 in Fig. 7A, column 13 lines 64-67 and column 14, lines 1-21), which are generated prior to receipt of all of an incoming data stream (column 14, lines 22-36), for the typical advantage of transmitting live television feeds to viewers as they are received.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut and Budow's system to include wherein data streams are generated prior to receipt of all of the incoming data stream, as taught by

Art Unit: 2614

Debey, for the typical advantage of transmitting live television feeds to viewers as they are received.

5. Claims 3, 12, 16, 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut and Budow as applied to claims 1, 10, 14, 18 and 22 above, and further in view of Hendricks et al. (Hendricks)(6,539,548).

As to claims 3, 12, 16, 20 and 24, while Blahut and Budow disclose wherein data streams are transmitted with an offset value, they fail to specifically disclose wherein the content providing server provides the programming offset value.

Hendricks discloses an Operations Center which transmits control information pertaining to near video on demand (such as offset values; column 4, lines 8-24) prior to transmission to a cable headend (column 6, lines 15-31) for the advantage of enabling a single site to remotely manage and control cable programming throughout a particular region (column 4, lines 14-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut and Budow's system to include wherein the content providing server provides programming control information (such as programming offset values), as taught by Hendricks, for the advantage of enabling a single site to remotely manage and control cable programming throughout a particular region.

Art Unit: 2614

6. Claims 4, 13, 17, 21 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut and Budow as applied to claims 1, 10, 14, 18 and 22 above, and further in view of Ganek et al. (Ganek)(5,724,646).

As to claims 4, 13, 17, 21 and 25, while Blahut and Budow disclose wherein a processor is arranged to transmit a plurality of data streams with an offset value, they fail to specifically disclose wherein the first data stream loops at least once.

Ganek discloses a near video on demand system where a program continuously transmits (loops) over a primary channel (Fig. 5b, column 1, lines 55-60) for the typical advantage of providing the video programming for an extended period of time.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify the combined system of Blahut and Budow to include wherein the first data stream loops at least once, as taught by Ganek, for the typical advantage of providing the video programming for an extended period of time.

7. Claims 5, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut in view of Budow, Debey, and Fluss (6,304,578).

As to claim 5, Blahut discloses a multicast server for streaming data (ITV Server, 120 and Headend Equipment, 101), comprising a **processor** unit (In ITV server, 120; column 3, lines 59-65), the processor unit being arranged to **receive** an incoming data stream corresponding to content (column 3, lines 38-58), wherein the processor unit is further arranged to **generate** at least a first and a second onward data streams for **transmission** to at least a first and second recipient subscribers (104), respectively

Art Unit: 2614

(column 8, lines 38-45 and lines 50-56), in response to an incoming data stream (column 3, lines 38-42), **wherein** the at least first and second onward data streams **correspond** substantially to the content (column 8, lines 15-63) and are **offset** in time with respect to each other by a respective offset value (see Fig. 5). Blahut fails to disclose a storage device coupled to the processor for storing content, wherein the recipient subscribers are servers, and a router coupled to the processor.

Debey discloses a cable headend with a storage device (storage units, 76) coupled to a processor (master control unit, 74) which stores video data (column 14, lines 11-36) for the typical advantage of enabling programming to be stored for transmission at a later time.

Budow discloses a video distribution system wherein video broadcast from a distribution center (Fig. 1, 210) is received by a recipient server (Fig. 2, video server 12, column 6, lines 40-57) for the advantage of allowing customers more control over and interaction with the video programming (column 4, lines 44-48).

Fluss discloses a cable head end (Fig. 1, 103) which includes a router (105; column 4, lines 32-39) for the typical advantage of routing data packets to the appropriate users (column 4, lines 16-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include a storage device for storing content, as taught by Debey, for the typical advantage of enabling programming to be stored for transmission at a later time.

Art Unit: 2614

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include the use of recipient servers, as taught by Budow, for the advantage of allowing customers more control over and interaction with the video programming.

Additionally, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Blahut's system to include a router, as taught by Fluss, for the typical advantage of routing data packets to the appropriate users

As to claim 6, Fluss discloses wherein the router is arranged to transmit the at least the at least first and second onward data streams to the at least first and second recipient servers, respectively (see Fluss at column 4, lines 34-45).

As to claim 7, while Blahut, Budow, Debey and Fluss disclose the generating of first and second onward data streams, they fail to specifically disclose wherein data streams are generated prior to receipt of all of an incoming data stream.

Debey further discloses the transmission of digital programming streams (column 14, lines 22-36), received at A/V digitizing units, (72 in Fig. 7A, column 13 lines 64-67 and column 14, lines 1-21), which are generated prior to receipt of all of an incoming data stream (column 14, lines 22-36), for the typical advantage of transmitting live television feeds to viewers as they are received.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to further modify the combined system of Blahut, Budow, Debey

Art Unit: 2614

and Fluss to include wherein data streams are generated prior to receipt of all of the incoming data stream, as further taught by Debey, for the typical advantage of transmitting live television feeds to viewers as they are received.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut, Budow, Debey and Fluss as applied in claim 5 above, and further in view of Hendricks et al. (Hendricks)(6,539,548).

As to claim 8, while Blahut, Budow, Debey and Fluss disclose wherein data streams are transmitted with an offset value, they fail to specifically disclose wherein the content providing server provides the programming offset value.

Hendricks discloses an Operations Center which transmits control information pertaining to near video on demand (such as offset values; column 4, lines 8-24) prior to transmission to a cable headend (column 6, lines 15-31) for the advantage of enabling a single site to remotely manage and control cable programming throughout a particular region (column 4, lines 14-20).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify the combined system of Blahut, Budow, Debey and Fluss to include wherein the content providing server provides programming control information (such as programming offset values), as taught by Hendricks, for the advantage of enabling a single site to remotely manage and control cable programming throughout a particular region.

Art Unit: 2614

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blahut, Budow, Debey and Fluss as applied in claim 5 above, and further in view of Ganek et al. (Ganek)(5,724,646).

As to claim 9, while Blahut, Budow, Debey and Fluss disclose wherein a processor is arranged to transmit a plurality of data streams with an offset value, they fail to specifically disclose wherein the first data stream loops at least once.

Ganek discloses a near video on demand system where a program continuously transmits (loops) over a primary channel (Fig. 5b, column 1, lines 55-60) which loops a television transmission continuously over television channels (Fig. 5b, column 1, lines 55-60) for the typical advantage of providing the video programming for an extended period of time.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify the combined system of Blahut, Budow, Debey and Fluss to include wherein the first data stream loops at least once, as taught by Ganek, for the typical advantage of providing the video programming for an extended period of time.

Conclusion

10. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Art Unit: 2614

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Sheleheda whose telephone number is (703) 305-8722. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Chris Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2614

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-HELP.

James Sheleheda
Patent Examiner
Art Unit 2614

JS


CHRIS GRANT
PRIMARY EXAMINER